

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ROSEMARY M. COMYFORD,

Plaintiff,

vs.

No. CIV 09-0303 JB/WDS

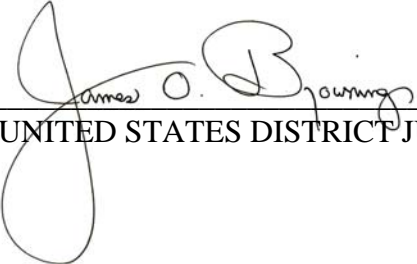
MICHAEL J. ASTRUE, Commissioner  
of the Social Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES UNDER  
THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** comes before the Court upon the Plaintiff's Application for Attorney Fees Under Equal Access to Justice Act, filed August 19, 2011 (Doc. 24). The Defendant has no objection to the Motion. See Response to Plaintiff's Motion for Attorneys Fees Pursuant to the Equal Access to Justice Act at 1, filed August 31, 2011 (Doc. 26). The Court finds that it shall grant the motion for attorney fees.

**IT IS ORDERED** that: (i) the Plaintiff's Application for Attorney Fees Under the Equal Access to Justice Act is granted; (ii) attorney fees be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) ("EAJA"), payable to Plaintiff Rosemary M. Comyford, in the amount of \$7,045.90, see Astrue v. Ratliff, 130 U.S. 2521, 2527 (2010) (holding that EAJA fees are paid to the prevailing party, not the attorney); and (iii) if Comyford's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Comyford pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).



UNITED STATES DISTRICT JUDGE

*Counsel:*

Patricia W. Glazek  
Sante Fe, New Mexico

*Attorney for the Plaintiff*

Kenneth J. Gonzales  
United States Attorney  
Manuel Lucero  
Assistant United States Attorney  
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-- and --

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*Attorneys for the Defendant*